IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 29260 of 2007(G)

PETITIONER:

V.MURALEEDHARAN,
NO.14370747, THAVAYIL HOUSE, MUNDAMUKHA,
GENESHGIRI, SHORNUR-3, PALAKKAD DISTRICT.

BY ADV. SRI.N.D.JOY

RESPONDENTS:

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1. GOVT.OF INDIA, REPRESENTED BY
THE SECRETARY MINISTRY OF DEFENCE,
NEW DELHI.

2. THE CHIEF OF THE ARMY STAFF,
SENA BHAVAN, ARMY HEADQUARTERS,
NEW DELHI.

BY ACGSC SRI.AJITH PRAKASH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V. GIRI ,J.

WP(C).NO.29260 of 2007

Dated this the 4th day of October, 2007

JUDGMENT

The petitioner was enrolled in the Regiment of Artillery on 16.3.1983. According to him, due to certain events he was taken to the Military Inspection Room and the M.I. Room Incharge found that he was suffering from Schizophrenia. He contends that the Medical Board had adjudicated 20% disability. Petitioner was discharged in the year 1985 as evidenced by Ext.P1 discharge letter.

2. According to the petitioner, in terms of the Army Pension Regulations, he is entitled to disability pension. He contends that he had moved the authorities several times earlier and Ext.P3 is referred to as a communication from the Commanding Officer in July 1993 requiring the petitioner to re-submit an application along with a photostat copy of the discharge certificate duly attested by the Zila Sainik Welfare Officer. It is not known whether it has been re-submitted or not. There is no material to indicate that any steps were taken by the petitioner after Ext.P3 till the submission of Ext.P2, dated 20.6.2007, which according to the petitioner is a statutory complaint. Petitioner prays for a direction to the Chief of the Army staff to look into Ext.P2 and take a decision thereon.

3. After having heard the learned counsel for the petitioner Mr.Joy and the learned Standing Counsel, I am of the view that the petitioner is disentitled to claim any relief from this Court, in as much as that there is a

long unexplained delay of almost 22 years, since the discharge of the petitioner in the year 1985 in approaching this Court. Learned counsel for the petitioner submits that such delay is on account of the fact that the petitioner was suffering from Schizophrenia. Therefore, he was not in a position to prosecute an appropriate remedy. But I find in Ext.P2 that the petitioner alleges that he had taken up the matter of disability pension in the record office which transmitted it to CGDA Allahabad, which indicates that as a matter of fact the petitioner had earlier moved the authority. But apparently, there is nothing to show that anything was done after July 1993. Be that as it may, as there is too long a period of unexplained delay on the part of the petitioner in approaching this court or even approaching the statutory authorities, I am of the view that a mandamus cannot be issued to the statutory authorities to look into the claim which is palpably stale. For all these reasons, the writ petition is dismissed.

V. GIRI, JUDGE

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